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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/777,509

02/12/2004

Simon C. Chu

RPS920030181US1

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07/17/2006

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EXAMINER

BLACK, LINH

ART UNIT

PAPER NUMBER

2163

DATE MAILED: 07/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/777,509	CHU ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	LINH BLACK	2163	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/12/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

This communication is in response to the Applicants' documents dated 2/12/04. Claims 1-23 are pending in the application. Claims 1, 8, 14, 19, and 21 are independent claims.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Milne et al. (US 6711660).

As per claim 1, Milne et al. teach

partitioning a hard disk of the appliance server into a plurality of partitions, wherein at least ONE of the plurality of partitions is a hidden partition – col. 1, line 52 to col. 2, line 13.

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copying the data associated with the first image file to the hidden partition, wherein the data in the hidden partition is invisible to a network operating system during normal server operation – col. 3, lines 11-15 and lines 50-56; col. 4, line 54 to col. 5, line 14.

As per claim 3, Milne et al. teach

wherein the at least one hidden partition is adapted to store data associated with a plurality of image files – col. 4, line 54 to col. 5, line 13.

As per claims 4-6, Milne et al. teach

initiating a re-provisioning event prior to copying step (b); and determining whether the hidden partition includes data associated with the second image file – col. 2, line 45-63; col. 6, lines 43-60.

placing the data associated with the second image in a data partition of the plurality of partitions if the hidden partition includes such data, wherein the data partition is visible to the network operating system during normal server operation – col. 4, last paragraph. replacing the first image file with the second image file; and completing the re-provisioning event – col. 2, line 64 to col. 3, line 5; col. 3, lines 12-25; col. 3, lines 50-56.

As per claim 7, Milne et al. teach

wherein the image tile includes an application, files required for installation and execution of the application and, when the application requires a corresponding

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operating system to operate, additional files for the corresponding operating system – col. 4, line 29 to col. 5, line 24.

Claims 8-13 rejected based on the same ground of rejection as of claims 1-7.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14, 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Milne et al. (US 6711660), and further in view of Rive (US 6301666).

As per claims 14 and 19-20, Milne et al. teach a first partition for storing an image file, wherein the first partition stores one image file at one time – col. 1, line 52 to col. 2, line 44; a hidden partition, wherein the hidden partition is invisible to the network operating system in the first partition - col. 1, line 52 to col. 2, line 13; means for replacing a first image file in the first partition with a second image file - col. 2, line 64 to col. 3, line 5; col. 3, lines 12-25; col. 3, lines 50-56; copying the data associated with the first image file to the hidden partition, wherein the data in the hidden partition is invisible to a network operating system during normal server operation – col. 3, lines 11-15 and lines 50-56; col. 4, line 54 to col. 5, line 14. However, Milne et al. do not explicitly suggest “second partition”. Rive teaches partitions – col. 4, lines 13-43; hidden partition – col. 6,

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last paragraph. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine both teachings to copy important data to hidden files and to efficiently and quickly restore data image back to users' accessible partitions in case of partitions' failures.

Claims 15-18 rejected based on the same ground of rejection as of claims 2-7.

Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Milne et al. (US 6711660), and further in view of Moradi et al. (US 20050033855)

As per claims 21-23, Milne et al. teach As per claim 1, Milne et al. teach partitioning a hard disk of the appliance server into a plurality of partitions, wherein at least ONE of the plurality of partitions is a hidden partition – col. 1, line 52 to col. 2, line 13; copying the data associated with the first image file to the hidden partition, wherein the data in the hidden partition is invisible to a network operating system during normal server operation – col. 3, lines 11-15 and lines 50-56; col. 4, line 54 to col. 5, line 14. Milne et al. do not suggest copying the data associated with any inactive client to the hidden partition. However, Moradi et al. teach disk partitioning – par. 0103; inactive clients – par. 0045; claim 71. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Milne et al.'s and Moradi et al.'s teachings to copy inactive clients' data to hidden or inactive partition to avoid usage of system on inactive or currently unused data and to efficiently and quickly check/restore inactive clients' data image back to users' accessible partitions in case of clients become active

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Milne et al. (US 6711660), and further in view of Merkin (6772330).

As per claim 2, Milne et al. do not teach the SETMAX command. Merkin teaches hidden partition – col. 1, line 34-43; hidden partition with SETMAX command – col. 2, lines 3-14. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Milne et al.'s teaching with Merkin's teaching in order to allow hidden partitions be created.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINH BLACK whose telephone number is 571-272-4106. The examiner can normally be reached on 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on 571-272-1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

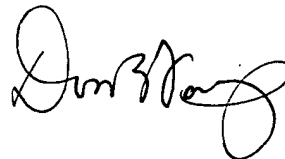
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LINH BLACK  
Examiner  
Art Unit 2163



July 10, 2006



DON WONG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100